



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

August 21, 2019

Ryan Geschke
Cheney Real Estate Management, Inc.
1827 1st Street
Cheney, WA 99004

Re: No Further Action at the following Site:

- **Site Name:** Cheney Super Stop Lots 8 & 9
- **Site Address:** NW Corner of K st & W 1st St, Cheney
- **Facility/Site No.:** 63162186
- **VCP Project No.:** EA0281

Dear Ryan Geschke:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Cheney Super Stop Lots 8 & 9 facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.

This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively “substantive requirements of MTCA”). The analysis is provided below.

Description of the Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:



- Petroleum hydrocarbons into the soil.
- Petroleum hydrocarbons and metals into the groundwater.

Enclosure A includes a detailed description and diagram of the Site, as currently known to Ecology.

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

Basis for the Opinion

This opinion is based on the information contained in the following documents:

1. Budinger & Associates, Results of Subsurface Exploration and Chemical Analysis Cheney Superstop, April 29, 1999.
2. Budinger & Associates, Results of Subsurface Exploration and Chemical Analysis Cheney Superstop, November 4, 1999.
3. Budinger & Associates, Groundwater Monitoring Results, January 6, 2015.
4. Budinger & Associates, Quarterly Groundwater Sampling- Cheney Super Stop Lots 8 & 9, January 4, 2016.
5. Budinger & Associates, September 2017 Monitoring Results, October 17, 2017.

Those documents are kept in the Central Files of the Eastern Regional Office of Ecology (ERO) for review by appointment only. You can make an appointment by calling the ERO resource contact at (509) 329-3415.

This opinion is void if any of the information contained in those documents is materially false or misleading.

Analysis of the Cleanup

Ecology has concluded that **no further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

1. **Characterization of the Site.**

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

Soil samples were collected from more than 40 soil borings as well as excavation pits and sidewalls to delineate the nature and extent of contamination. Four groundwater monitoring wells were installed to establish the direction and gradient of groundwater flow.

2. Establishment of cleanup standards.

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

For soil, the cleanup levels were established using MTCA Method A and are based on protection of groundwater. The land use is classified as unrestricted.

Gasoline-range organics:	100 mg/kg
Diesel- and oil-range organics:	2,000 mg/kg

The point of compliance for soil is throughout the soils at the Site. This is the standard point of compliance.

For groundwater, the cleanup levels were established using MTCA Method A and are based on the protection of drinking water beneficial uses. The cleanup levels are as follows:

Arsenic:	5.0 µg/L
Lead:	15 µg/L
Benzene:	5.0 µg/L
Gasoline-range organics:	800 µg/L
Diesel- and oil-range organics:	500 µg/L

For groundwater, the point of compliance is throughout the Site from the uppermost level of the saturated zone extending vertically to the lowest most depth that could potentially be affected by the Site. This is the standard point of compliance.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA.

- Removal of all underground storage tanks (USTs).
- Collection and removal of separate-phase petroleum hydrocarbons to the maximum extent practicable.
- Excavation and removal of petroleum-contaminated soil (PCS) to the maximum extent practicable.
- Groundwater monitoring from a minimum of three wells until samples collected from all wells are below MTCA Method A groundwater cleanup levels for four consecutive quarters.
- Backfilling of all excavations with clean soil and capping any remaining PCS with asphalt.
- Filing of an environmental covenant to restrict land use and protect the asphalt cap.

4. Cleanup.

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.

- Two 500-gallon USTs and associated piping were excavated and removed from the south area of the Site.
- Separate-phase petroleum hydrocarbons were removed from excavation pits using sorbent pads.
- Approximately 506 tons of PCS were removed from around the UST excavations and disposed at Graham Road Landfill in Medical Lake, WA. Contaminated soil remains to the west and south of the remedial excavations.
- Four groundwater monitoring wells and a collection pipe in the east excavation pit were installed in 1999. Samples collected from these wells contained arsenic, lead, and diesel-range petroleum hydrocarbon concentrations above the MTCA Method A cleanup levels. Subsequent quarterly monitoring demonstrated attenuation of these analytes to below the cleanup levels.

- All excavations were backfilled with clean soil and graded to allow drainage away from the remaining PCS. An asphalt cap was installed above the remaining PCS.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

1. Compliance with institutional controls.

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- Restriction of land use to ensure protection of the asphalt cap.

To implement that control, an Environmental Covenant has been recorded on the following parcel of real property in Spokane County:

- 13133.2211

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure B**.

2. Operation and maintenance of engineered controls.

Engineered controls prevent or limit movement of, or exposure to, hazardous substances. The following engineered control is necessary at the Site:

- Asphalt cap with lined infiltration swale.

Ecology has approved the operation and maintenance plan you submitted for this engineered control. A copy of the plan is included in Exhibit B of the Environmental Covenant (**Enclosure B**).

Periodic Review of Post-Cleanup Conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If Ecology determines, based on a

periodic review, that further remedial action is necessary at the Site, then Ecology will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will initiate the process of removing the Site from our lists of hazardous waste sites, including:

- Hazardous Sites List.
- Confirmed and Suspected Contaminated Sites List.

That process includes public notice and opportunity to comment. Based on the comments received, Ecology will either remove the Site from the applicable lists or withdraw this opinion.

Limitations of the Opinion

1. Opinion does not settle liability with the state.

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

2. Opinion does not constitute a determination of substantial equivalence.

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

Ryan Geschke
August 21, 2019
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The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. See RCW 70.105D.030(1)(i).

Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (#EA0281).

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at (509) 329-3522 or e-mail at ted.uecker@ecy.wa.gov.

Sincerely,



Ted M. Uecker
ERO Toxics Cleanup Program

tu:kr

Enclosures (2): A – Description and Diagrams of the Site
B – Environmental Covenant for Institutional Controls

cc: Steve Burchett, Budinger & Associates
Lyndsay Gordon, VCP Financial Manager (without enclosures)

Enclosure A

Description and Diagrams of the Site

Site Description

The Site is located at the corner of K Street and West 1st Street in Cheney, on tax parcel 13133.2211. The property was used as a service station from about 1940 until 1951 when it was purchased by the City. It was used as a shop and maintenance facility until the 1970s. The above ground tanks (ASTs) and one underground storage tank (UST) were removed in 1974. The building was also demolished. The Site has remained vacant and has been used for parking since 1974.

The area north of the Site is residential. A supermarket and paved lot are located across K Street to the east. Adjacent properties to the west and south are commercial. Site soils consist of a mixture of gravel, sand, and silt with cobbles and occasional boulders. These soils are generally 6 – 8 feet deep and are underlain by basalt. Shallow groundwater was encountered approximately 6 – 7 feet below ground surface (bgs) at the site. Depth to the deeper basalt aquifer is approximately 46 feet bgs.

Site History

The City of Cheney planned to transfer lots 4 - 9 to Spokane Transit Authority (STA) for development of a bus stop. In 1998, a Level 1 Site Assessment was conducted for STA, including limited excavation of test pits and sampling. The report indicated petroleum odor and sheen were observed in several test pits. Former UST system piping was encountered approximately 1 foot bgs in test pit. Shallow groundwater was encountered at approximately 7.5 to 9 feet bgs in two test pits and a slight sheen was observed on the surface of the water. Ten soil samples were collected from the test pits and three samples were submitted for analysis. Only heavy oil range hydrocarbons were detected above the current cleanup level of 2,000 mg/kg; however, the method detection limit for benzene was above the current cleanup level of 0.03 mg/kg.

Forty soil borings were installed over all six lots in April 1999 in order to define the extent of contamination. Many of the borings encountered refusal at bedrock at 8 to 10 feet. Several borings were completed at 12 and 15 feet. Samples were field screened for evidence of petroleum contamination (discoloration, odor, and sheen). The effected soils were obviously discolored and had a distinct petroleum odor. Results indicated the presence of gasoline and heavy oil range hydrocarbons.

A preliminary groundwater sample was collected from one boring; results indicated gasoline and benzene concentrations exceeded the current cleanup levels of 800 µg/l and 5 µg/l, respectively.

Another boring encountered soils saturated with petroleum and a groundwater sample was collected from the boring. A 2 – 3 inch layer of free product was encountered, and results indicted the free product was motor oil. Subsequent excavation in the area encountered two abandoned USTs and associated piping. The tanks and piping were removed and sorbents were used to remove a thin layer of petroleum from groundwater exposed in the excavation.

The area near the center of Lots 8 & 9 where free product was previously encountered was excavated. Piping was encountered approximately 2 feet below grade and appeared to contain gasoline. The pipe was followed to the west where two 500 gallon USTs were discovered. Both were approximately half full on water and product and were fairly corroded. The pipe continued to the east and south. Soils surrounding the USTs were discolored and had a petroleum odor. After the liquid was pumped out, the tanks were cleaned and removed. All associated piping was also removed.

Contaminated soils surrounding the USTs were also excavated and the excavations were backfilled with clean material. Sorbents were used to remove a thin layer of petroleum from groundwater exposed in the excavation. The highest concentrations of petroleum hydrocarbons were in the soils surrounding the USTs. Concentrations of gasoline, diesel, and heavy oil range hydrocarbons exceeded cleanup levels.

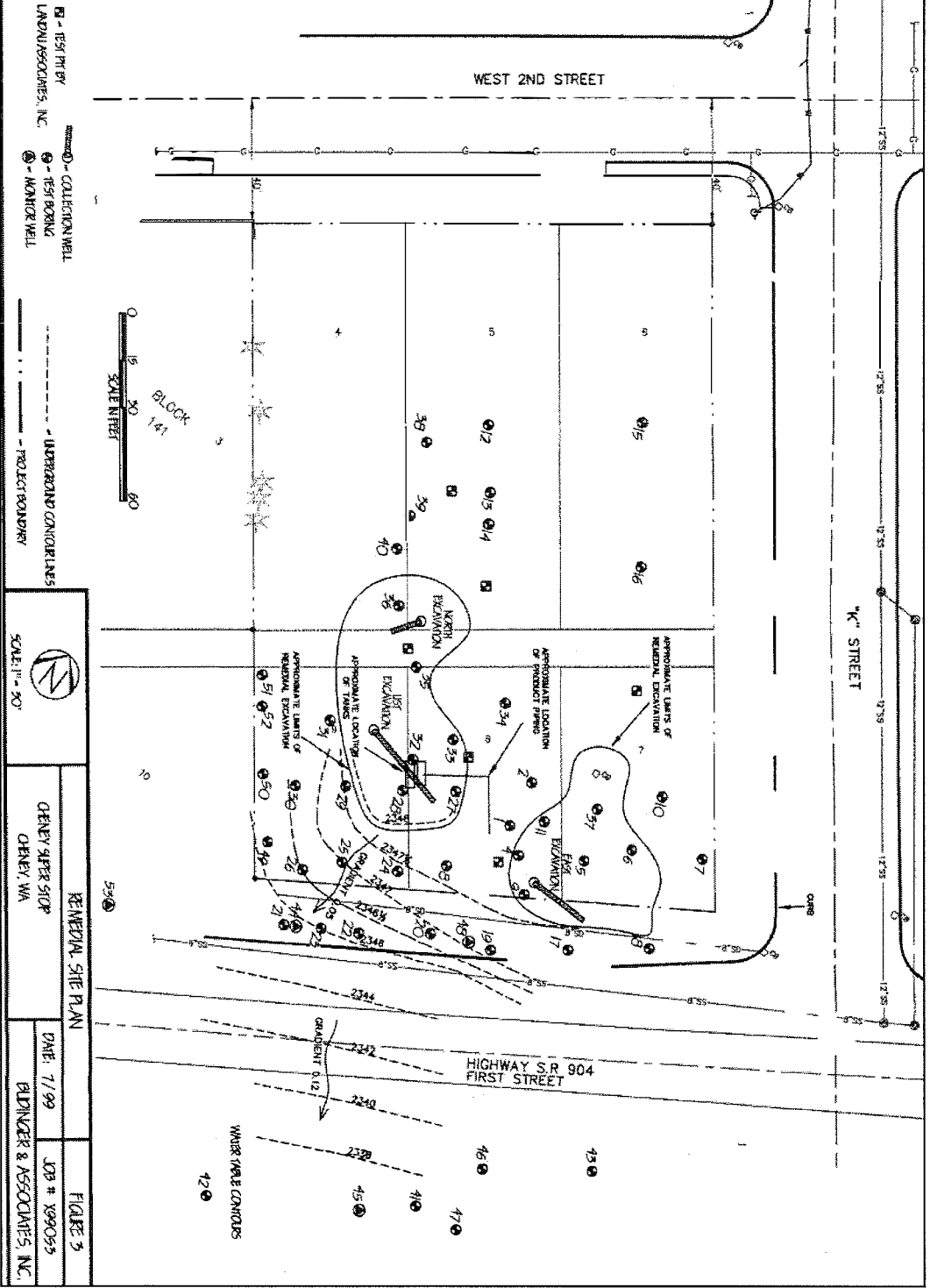
Extensive remediation was conducted on Lots 4, 5, 6 and 7. A total of 506 tons of contaminated soil was removed and transported to the Graham Road facility for disposal. The excavations were backfilled with clean material and paved. Ecology issued an NFA after an Initial Investigation for Lots 4, 5, 6 and 7 in January 2000.

The free product and most of the heavily contaminated soil was removed from Lots 8 & 9; however, concentrations of gasoline, diesel, and heavy oil range hydrocarbons remain beneath unexcavated areas of the Site. Shallow groundwater was also impacted from the release.

Four monitoring wells and a collection pipe in the east excavation were also installed in 1999. Results indicated gasoline, diesel, heavy oil range hydrocarbons, and benzene exceeded cleanup levels.

Additional groundwater samples were collected from the five monitoring wells and the east excavation in 2015 to assess current groundwater conditions. Concentrations of arsenic and lead exceeded cleanup levels in 2014; diesel concentrations exceeded the cleanup level in the east excavation sample in 2015. Subsequent sampling in 2016 and 2017 demonstrated that all contaminants of concern were below cleanup levels in all wells.

Plans to cap and develop the Site were submitted to Ecology in September 2017. An environmental covenant was filed with Spokane County in May 2019.



■ - TEST PIT BY
 LAND ASSOCIATES, INC.
 ○ - COLLECTION WELL
 ● - TEST BORING
 ⊙ - MONITOR WELL

- - - - - UNDERGROUND CONDUIT LINES
 - - - - - PROJECT BOUNDARY
 BLOCK 141
 SCALE FEET
 0 15 30 60

SCALE: 1" = 30'

REMEDIAL SITE PLAN
 GENEY SHOPS SHOP
 GENEY WA

DATE: 7/99
 JOB #: 099055
 BLININGER & ASSOCIATES, INC.

FIGURE 5

Enclosure B

Environmental Covenant



RETURN NAME and ADDRESS

Ted Uecker
Toxics Cleanup Program
Department of Ecology
4601 N. Monroe
Spokane, WA 99205

Please Type or Print Neatly and Clearly All Information

Document Title(s)

Environmental Covenant

Reference Number(s) of Related Documents

Grantor(s) (Last Name, First Name, Middle Initial)

Geschke, Gary W.

Grantee(s) (Last Name, First Name, Middle Initial)

State of Washington, Department of Ecology

Legal Description (Abbreviated form is acceptable, i.e. Section/Township/Range/Qtr Section or Lot/Block/Subdivision)

Second add to Town of Cheney Lots 1,2,3,5,9,10,11 and 12 block 141; 106 w/ ptn of vac alley adj to
sel lots 1,2,3,10,11, and 12; tog w/ SELy 1/2 of vac alley lgs NWly of and adj to sel Lts 8 and 9; enc any
ptn in row.

Assessor's Tax Parcel ID Number 13133.2211

The County Auditor will rely on the information provided on this form. The Staff will not read the document to verify the accuracy and completeness of the indexing information provided herein.

Sign below only if your document is Non-Standard.

I am requesting an emergency non-standard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some parts of the text of the original document. Fee for non-standard processing is \$50.

Signature of Requesting Party

After Recording Return
Original Signed Covenant to:
Ted Uecker
Toxics Cleanup Program
Department of Ecology
4601 N. Monroe
Spokane, WA 99205

RECEIVED
MAY 06 2019
Department of Ecology
Eastern Washington Office

Environmental Covenant

Grantor: Gary W. Geschke

Grantee: State of Washington, Department of Ecology (hereafter "Ecology")

Brief Legal Description: Cheney Super Stop Lots 8 & 9

Tax Parcel No.: 13133.2211

RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b. The Property that is the subject of this Covenant is part or all of a site commonly known as Cheney Super Stop Lots 8 & 9, FSID# 63162186. The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Petroleum Hydrocarbons, Metals

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. This includes the following documents:

1. Results of Subsurface Exploration and Chemical Analysis Cheney Superstop: Budinger & Associates, April 29, 1999.
2. Results of Subsurface Exploration and Chemical Analysis Cheney Superstop: Budinger & Associates, November 4, 1999.

3. Groundwater monitoring results: Budinger & Associates, January 6, 2015.
4. Quarterly Groundwater Sampling- Cheney Super Stop Lots 8 & 9: Budinger and Associates, January 4, 2016.

e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property, however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.* The rights of Ecology as an “agency” under UECA, other than its’ right as a holder, are not an interest in real property.

COVENANT

Gary W. Geschke, as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the GRANTOR has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.
- d. **Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. **Preservation of Reference Monuments.** Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

a. Containment of Soil/Waste Materials.

The remedial action for the Property is based on containing contaminated soil under a cap consisting of asphalt and landscaping located in the Area of Concern as illustrated in Exhibit B. The primary purpose of this cap is to prevent exposure to contaminated soil and limit stormwater infiltration. As such, the following restrictions shall apply within the Area of Concern illustrated in Exhibit B:

Any activity on the Property except those approved by Ecology in Exhibit C that will compromise the integrity of the cap including: drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity, is prohibited without prior written approval by Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap. As specified in the attached Maintenance and Repair Plan (Exhibit D), the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

The Grantor covenants and agrees that it shall annually, or at another time as approved in writing by Ecology, inspect the cap and report within thirty (30) days of the inspection the condition of the cap and any changes to the cap that would impair its performance.

b. Stormwater facilities.

To minimize the potential for mobilization of contaminants remaining in the soil on the Property, no stormwater infiltration facilities or ponds shall be constructed within the area of the Property except those illustrated in Exhibit C. All stormwater catch basins, conveyance systems, and other appurtenances located within this area shall be of water-tight construction.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. Conveyance of Any Interest. The Grantor, when conveying any interest WITHIN THE AREA OF THE PROPERTY DESCRIBED AND ILLUSTRATED IN EXHIBITS B, including but not limited to title, easement, leases, and security or other interests, must:

- i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON _____ AND RECORDED WITH THE SPOKANE COUNTY AUDITOR UNDER RECORDING NUMBER _____. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

b. Reporting Violations. Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

c. Emergencies. For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

d. Notification procedure. Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

<p>Geoffrey Ryan Geschke 1827 1st Street Cheney, WA 99004 (509) 235-5000 ryan@cheneyhousing.com</p>	<p>Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 ToxicsCleanupProgramHQ@ecy.wa.gov</p>
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Section 5. Modification or Termination.

a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent

with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:

i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and

ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.

b. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

c. By signing this agreement, per RCW 64.70.100, the original signatories to this agreement, other than Ecology, agree to waive all rights to sign amendments to and termination of this Covenant.

Section 6. Enforcement and Construction.

a. This Covenant is being freely and voluntarily granted by the Grantor.

b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.

c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.

d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.

e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.

f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.

g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 6th day of May, 2019.

[Signature]

by: Geoffrey Ryan Goschke

Title: Attorney In Fact for Gary W. Goschke

INDIVIDUAL ACKNOWLEDGMENT

STATE OF WASHINGTON
COUNTY OF SPOKANE

On this 6 day of May, 2019, I certify that Geoffrey Ryan Goschke personally appeared before me, acknowledged that **he/she** is the individual described herein and who executed the within and foregoing instrument and signed the same at ~~his/her~~ free and voluntary act and deed for the uses and purposes therein mentioned.



Connie S Lattin
Notary Public in and for the State of Washington
Residing at Cheney, WA
My appointment expires 9/9/2020

The Department of Ecology, hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Kathy Falconer

by: Kathy Falconer

Title: SECTION MANAGER, TCP

Dated: May 16, 2019

STATE ACKNOWLEDGMENT

STATE OF Washington

COUNTY OF Spokane

On this 16th day of May, 2019, I certify that Kathy Falconer personally appeared before me, acknowledged that ~~he~~ she is the Section Manager-TCP of the state agency that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed, for the uses and purposes therein mentioned, and on oath stated that ~~he~~ she was authorized to execute said instrument for said state agency.

Cynthia K Anderson
Notary Public in and for the State of Washington

Residing at Spokane

My appointment expires Sept 14, 2019

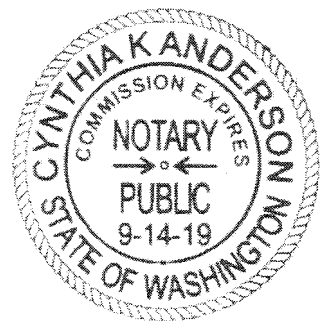


Exhibit A

LEGAL DESCRIPTION

The Site is located at the corner of K Street and West 1st Street in Cheney in the southern half of Section 13, Township 23N, Range 41. The Site consists of Spokane County Tax Parcel 13133.2211, with Lots 8 and 9 residing in the eastern section of the parcel. The provisions in this Covenant apply to Lots 9 and 9 (referred to as the Area of Concern in Exhibit B), and all approved engineered structures (including the asphalt and landscape cap, as well as drainage basins) are illustrated in Exhibit C.

The Site and surrounding property was used as a service station from about 1940 until 1951 when it was purchased by the City. It was used as a shop and maintenance facility until the 1970s. The above ground tanks (ASTs) and one underground storage tank (UST) were removed in 1974. The building was also demolished. The Site has remained vacant and has been used for parking since 1974. The area north of the Site is residential. A supermarket and paved lot are located across K Street to the east. Adjacent properties to the west and south are commercial.

Exhibit B

PROPERTY MAPS

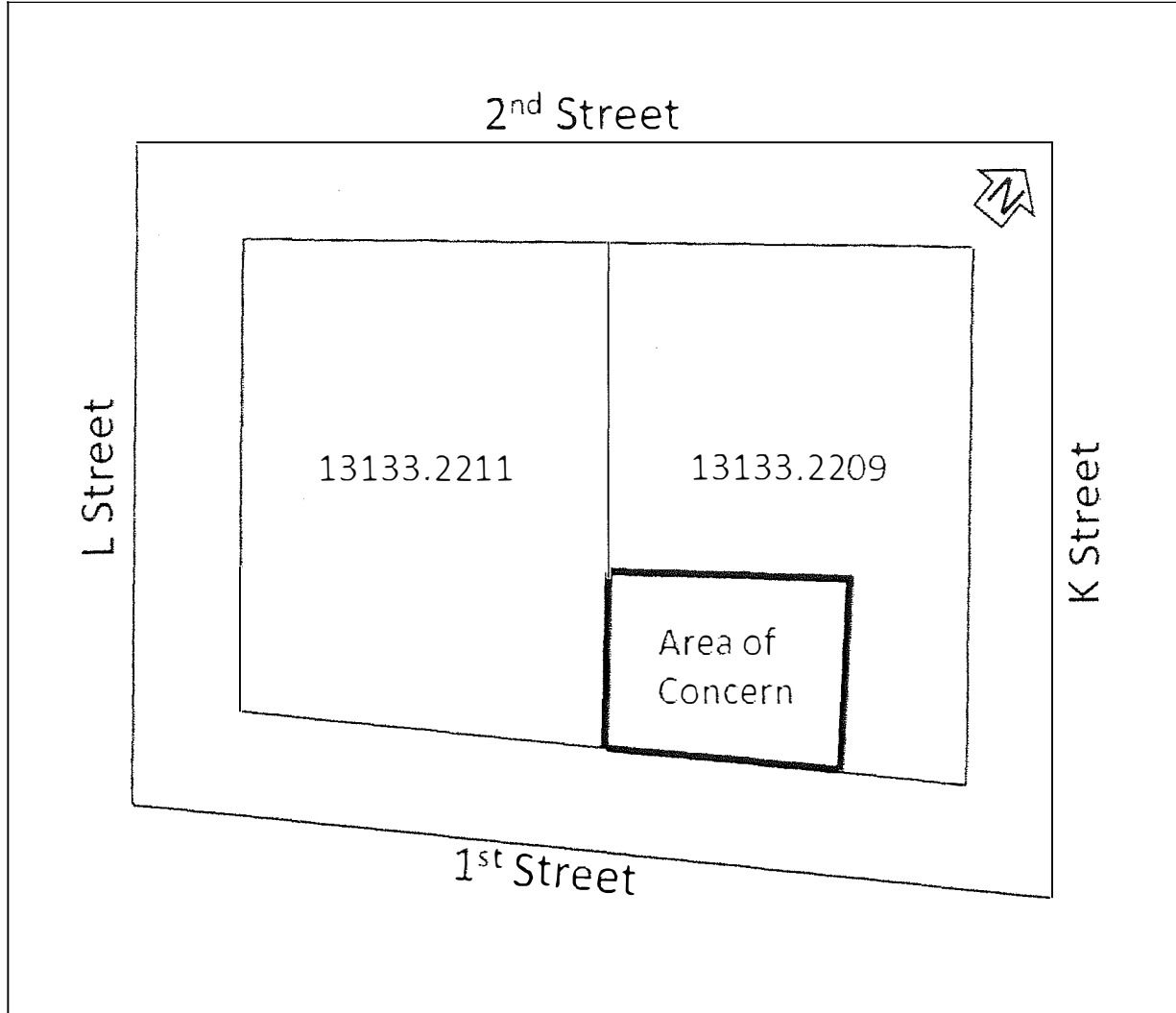


Exhibit C

Site Grading Plan

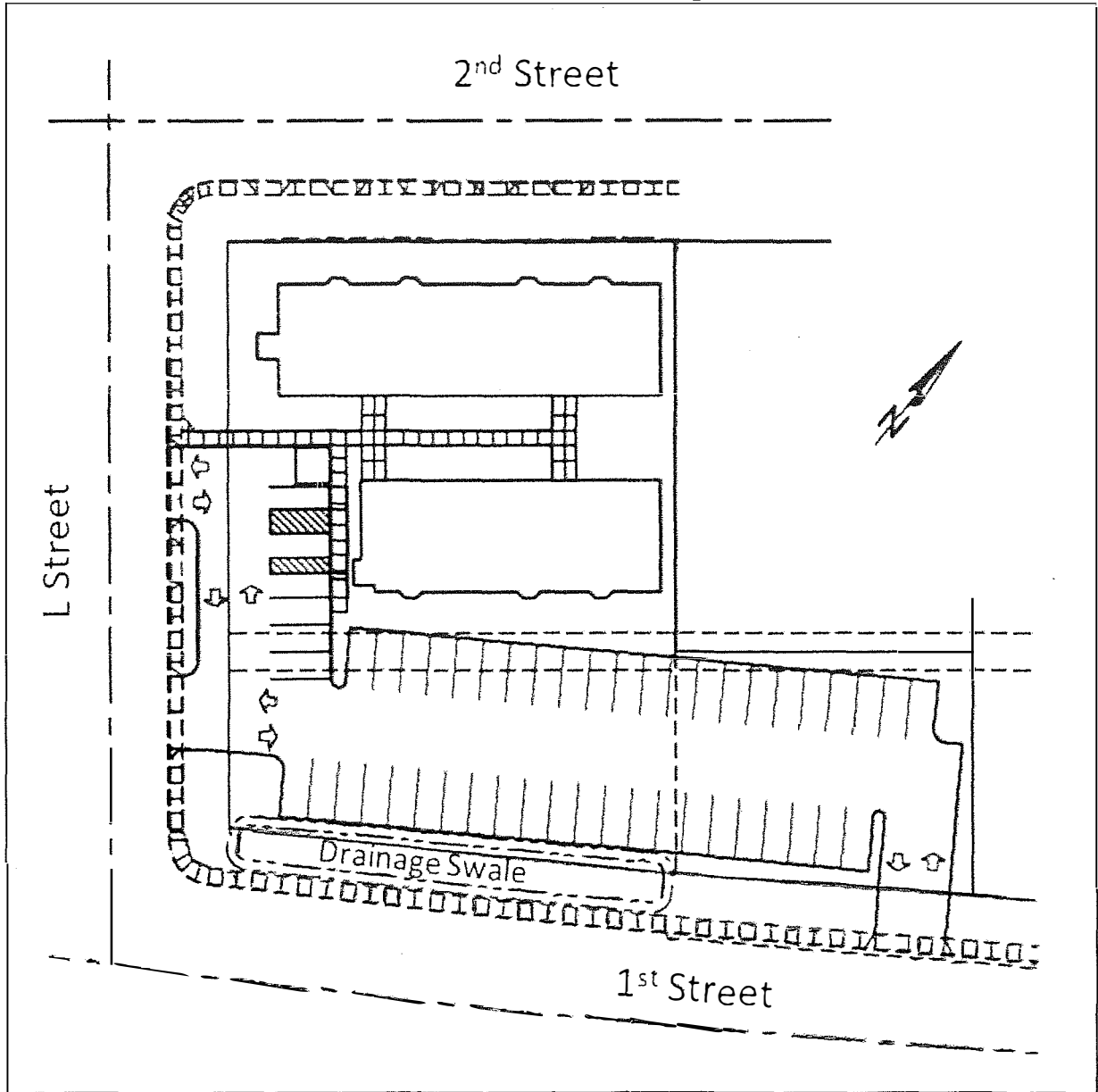


Exhibit D

Maintenance and Repair Plan



Budinger
& Associates

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1827 1st Street
Cheney, WA 99004

December 13, 2017

Project Number X14463

PROJECT: 223 W. 2nd Street
Cheney, WA

SUBJECT: Maintenance and Repair Plan

INTRODUCTION

This letter presents a Maintenance & Repair Plan for engineering controls and cap of the 223 W. 2nd Street site. The site is located between W. 1st Street & W. 2nd Street in Cheney, WA. The site is listed by the Washington State Department of Ecology as:

Facility Site ID: 63162186
Cleanup Site ID: 674
Voluntary Cleanup Program ID: EA0281

The subject property and eastern half of the block was previously occupied by a shop facility with underground storage tanks which had a release of gasoline, diesel, and oil range petroleum hydrocarbons, benzene, arsenic, and lead into soil and groundwater. The adjacent lots to the north were remediated in 1999 and redeveloped into an STA Park and Ride Facility. Petroleum and metals exceeding Model Toxics Control Act (MTCA) Method A cleanup levels remain in the soil at the subject property.

The property will be capped with a paved parking lot to limit infiltration. Monitoring wells were installed to permit long term testing. The monitoring wells were decommissioned in December 2017. Restrictive covenants are in place restricting use of the property. The area is planned to serve as a paved parking area for a new apartment complex to be constructed adjacent to the west as illustrated on the attached development plan.

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Spokane Valley, WA 99212
Tel: 509.535.8841
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This plan is intended to maintain engineering controls in accordance with the Restrictive Covenant. Specifically, this plan provides procedures to: (1) inspect and maintain the installed cap; (2) notify and protect potential utility workers that may encounter contaminated soil beneath the protective cap; and (3) repair the cap if damaged.

AREAS OF POTENTIAL CONCERN

If future maintenance or repair activities at the site occur in areas known to contain contaminated soils, exposure to potentially contaminated soil or groundwater is possible which may exceed MTCA cleanup levels. Such areas include, but are not limited to, utility trenches, drainage trenches and overflow systems, sprinkler systems, and paved areas. The following provides guidelines for general maintenance of the cap, as well as recommendations, if the protective cap is compromised:

1. Inspect and maintain the asphalt pavement – The owner, or their designated representative, should periodically inspect the asphalt on the site. If cracking or significant deterioration of the asphalt is identified, repairs should be completed as soon as possible to prevent water infiltration. The site should be inspected, at a minimum, during each spring and fall.
2. If significant cracking or deterioration of the asphalt cap requires repair, or if any future construction on the site included disturbance or demolition of the cap, it is critical to notify the workers who will be potentially exposed workers for their protection. The involved workers should be informed and familiar with the Cleanup Action Report.
3. Notify the Washington State Department of Ecology of any proposed repair or construction that will require excavation.

Toxics Cleanup Program
Washington State Department of Ecology
4601 N Monroe Street
Spokane, WA 99205
(509) 329-3410

CONTAMINANTS OF POTENTIAL CONCERN AND CLEANUP STANDARDS

Based on previous assessment and analytical testing of the site, the potential contaminants of concern include heavy metals, petroleum hydrocarbons, Volatile Organic Compounds, and Polycyclic Aromatic Hydrocarbons.

HANDLING AND DISPOSITION PLAN FOR SOIL

This plan is intended to provide guidance to the owner's contractors and consultants regarding (1) identification, (2) characterization, (3) handling, and (4) disposal of contaminated soil and that may be encountered during future construction activities at the site.

IDENTIFICATION OF POTENTIALLY CONTAMINATED SOIL

1. Contractor personnel will review this Plan to familiarize themselves with the potentially contaminated soil at the site.
2. An environmental consultant will be present on site when the contractor is excavating in identified areas of interest and/or if contamination is otherwise encountered to assist in the identification of potentially contaminated soil.
3. An environmental consultant will observe and document excavation activities and advise the contractor regarding segregation of potentially contaminated media.
4. If the contractor observes excavated soil that exhibits one or more of the following field screening characteristics
 - staining,
 - chemical or petroleum odors, and/or
 - a sheen when placed in contact with water, then the soil shall be identified as potentially contaminated and will be handled and characterized as described below. Note that the absence of these physical characteristics does not necessarily imply that the soil does not contain contaminants.
5. The owner should notify an environmental consultant to assist the contractor in segregating the potentially contaminated soil. An environmental consultant will use field screening techniques, including visual, sheen and headspace vapor methods (using a photoionization detector), to classify or segregate the soil and/or to select samples for chemical analyses.
6. Chemical testing of representative samples of potentially contaminated soil will be performed as described below.

HANDLING AND CHARACTERIZATION OF POTENTIALLY CONTAMINATED SOIL

1. As appropriate, the contractors shall use trained and certified personnel for excavation activities per OSHA and Washington Department of Labor and Industries standards (HAZWOPER) and shall be responsible for monitoring the health and safety of their employees. The contractors shall work closely with an environmental consultant in identifying potentially impacted materials as they are encountered during work at the

site, and shall be responsible for appropriately handling potentially impacted material pursuant to the methods and procedures outlined in this document.

2. The extent of excavation of contaminated soil will be determined in the field based on field screening. Once the decision is made to terminate excavation, confirmation soil samples will be collected consistent with MTCA requirements to document soil concentrations remaining in the excavation.
3. Potentially contaminated soil will be segregated and secured on-site pending chemical analyses for waste characterization. The contractor will secure potentially contaminated soil by placing it either in (1) a designated stockpile area that is lined and covered by durable plastic sheeting and bermed to control runoff, or (2) in labeled drums, roll-off containers, or other covered containers. Access to the secured soil will be restricted by fencing or other physical barriers to prevent unauthorized personnel from contacting the soil. The contractor will comply with Best Management Practices for erosion and sediment control.
4. Potentially contaminated soil should be sampled by a representative of an environmental consultant. Soil samples will be submitted for chemical analyses to identify reuse or disposal options. The frequency of sampling and selected chemical analyses will be in accordance with Ecology regulations and guidance.

DISPOSAL OPTIONS FOR SOIL

1. Transport and disposal of soil will be in accordance with local, state, and federal regulations.
2. The owner will be responsible for off-site disposal of contaminated soil or dangerous waste originating from the 223 W. 2nd Street site.

Thank you for the opportunity to be of service. Please do not hesitate to call if you have any questions.

Respectfully Submitted:
BUDINGER & ASSOCIATES

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